

REMARKS/ARGUMENTS

Claims 1 to 77 are in this application. New claims 73 to 77 have been added herein, directed to machine-readable medium comprising instructions for estimating a communication channel response. Support for these new claims can be found throughout the specification as filed, including, for example, in claims 58 to 62 and in paragraphs [0098]-[0101].

Allowable Subject Matter

Initially, Applicants thank the Examiner for the indication that claims 1 to 67 are allowed. In this regard, Applicants note that while the Office Action Summary indicated that claims 1 to 67 were allowed, the Detailed Action referred only to claims 1 to 66 as allowed. Accordingly, Applicants respectfully request that the Examiner confirm that claim 67 has been allowed.

Claim Rejections – 35 USC § 101

Claims 68 to 72 are rejected under 35 USC § 101 as being allegedly directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

The Office Action indicates that “[d]ata structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory” and that “claim 68 appears to recite a processor configured to perform certain steps through a data structure performed by processor.” Applicants respectfully submit that claim 68 nowhere recites “a data structure” or “data structures.” Rather, claim 68 is directed to an “apparatus for estimating a communication channel impulse response, comprising a processor,” which is statutory subject matter within the purview of 35 U.S.C. § 101. As set forth in MPEP § 2100, “[w]hen a computer program is recited in conjunction with a physical structure, such as a computer memory, USPTO personnel should treat the claim as a product claim.” In this regard, “[o]nly when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material *per se* and hence nonstatutory.” MPEP § 2100. Applicants respectfully submit that the 35 U.S.C. § 101 rejection of claim 68 is improper, as claim 68 recites physical structure (*e.g.*, an apparatus, a processor, *etc.*), and not merely a program listing. Reconsideration and withdrawal of the 35 U.S.C. § 101 rejection of claim 68 is therefore respectfully requested.

Claims 69 to 72 are dependent from independent claim 68 discussed above and therefore are believed to be allowable for at least the same reasons. Because each dependent claim is deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Applicant requests a two-month extension of time to response to the Non-Final Office Action issued October 17, 2007. Please charge the extension fee to Deposition Account No. 17-0026.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated 2/25/08

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